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OF COUNSEL  
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April 28, 1997

Dawn M. Odrowski, Esq.  
Office of General Counsel  
Federal Election Commission  
Sixth Floor  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3774

Dear Ms. Odrowski:

This is in response to your letter of April 23, 1997.

With respect to your request for additional information concerning certain individuals identified in NRTWC's response to the subpoena:

- (a) Reed Larson is, among other things, President of NRTWC, as was manifest in the Commission's subpoena and in NRTWC's response. As the Commission well knows, having directed the subpoena to him, Mr. Larson's office is at NRTWC's office, located at 8001 Braddock Road, Springfield, VA 22151 (Ph. 703-321-9820). His primary occupation is that of association executive. Any communications to Mr. Larson should be addressed to me.
- (b) To the best of my client's knowledge, Karl Gallant, among other things, is currently a political consultant employed at Americans for a Republican Majority PAC, 117 2nd Street, N.E., Washington, D.C. 20002 (Ph. 202-547-9320).
- (c) To the best of my client's knowledge, Maureen Fallon was last employed as a Project Accountant at the Federal Triangle Management Partnership in Washington, D.C. (Ph. 202-628-8282).

We note, for the record, that your desire to have more information with respect to these individuals was not raised in any of the phone calls I had with Commission attorneys in the attempts to resolve my client's objections to the scope of the subpoena, which has led to the current impasse.

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As for our dispute concerning the constitutional overbreadth of the Commission's subpoena, your letter repeats the same overbroad language, i.e., "public communications financed, distributed or produced by the NRTWC...that in any way reference 1992 federal candidates or 1992 federal elections."

The last time we researched the scope of the FEC's jurisdiction over communications, a Supreme Court enunciated two-part test applied, i.e., the "express advocacy" test, which requires "expressly advocating the election or defeat of clearly identified candidates for federal office." Simply "referencing federal candidates or federal elections" leaves out the second half of the Supreme Court's test, as the Commission is well aware.

My client DID RESPOND to Interrogatory No. 3 of the subpoena, stating that "it did not engage in or finance any activities within the jurisdiction of the FEC in October-December 1992."

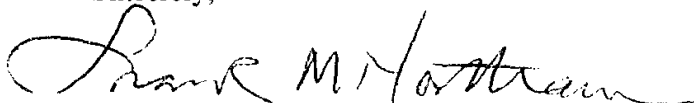
Your letter of February 12, 1997, transmitting the subpoena to my client, stated, "The Commission does not consider the NRTWC to be a respondent in this matter, but rather a witness only," and my client has never been informed of any complaint pending against it. However, demanding information and documents with respect to my client's activities certainly makes it appear that my client is a respondent or target of your investigation, in spite of your February 12 representation to the contrary.

In my discussions with Commission staff, I have been informed that you did not have, and thus cannot produce, any NRTWC mailing for my client to verify, which my client is willing to do. Instead, I have been informed that, in addition to the fact that my client, a 501(c)(4) organization, received a contribution from another 501(c)(4) organization, a perfectly normal transaction that would hardly raise judicial eyebrows, the Commission is basing its inquisitiveness on newspaper articles!

You have been unable to demonstrate any factual basis or articulate any legal theory that would give the Commission jurisdiction over my client's activities, and none appears to exist. Instead, the Commission simply appears to be on a fishing expedition to see what it can troll up.

My client declines to participate in such an extra-jurisdictional exercise with the Commission.

Sincerely,



Frank M. Northam

FMN/ctb

cc: Richard Clair, Esq.